

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(6), and 249A.4, the Department of Human Services amends Chapter 41, “Granting Assistance,” Chapter 75, “Conditions of Eligibility,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 161, section 1, provides that, for tax year 2007 and thereafter, any state earned income tax credit (EITC) in excess of a person’s tax liability is refundable. Department policies for determining Family Investment Program (FIP) and Medicaid eligibility already specify that federal earned income tax credits are exempt as income, regardless of whether the payments are received with the regular paychecks or as a lump sum with the tax refund. However, the Department’s rules have not mentioned state income tax refunds, since previously the state earned income tax credit was nonrefundable.

These amendments clarify that for FIP eligibility and eligibility under a Family Medical Assistance Program (FMAP)-related Medicaid coverage group, both federal and state EITC payments are:

- Exempt as income; and
- Exempt as a resource in the month of receipt and the following month.

These amendments also establish the same income policy for the Child Care Assistance Program. (Resources are not considered in determining eligibility for Child Care Assistance.)

These amendments do not provide for waivers in specified situations, since exempting these payments is a benefit to clients who receive them. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6685B**. Notice of Intended Action to solicit comment on that submission was published on the same date as **ARC 6686B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 11, 2008.

These amendments are intended to implement Iowa Code sections 237A.13, 239B.7, and 249A.4 and Iowa Code Supplement section 422.12B.

These amendments shall become effective August 6, 2008, at which time the Adopted and Filed Emergency rules are rescinded.

The following amendments are adopted.

ITEM 1. Amend paragraph **41.26(1)“I”** as follows:

l. ~~Earned~~ Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

ITEM 2. Amend paragraph **41.27(7)“g”** as follows:

g. ~~Earned~~ Federal or state earned income tax credit.

ITEM 3. Amend paragraph **75.56(1)“I”** as follows:

l. ~~Earned~~ Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

ITEM 4. Amend paragraph **75.57(7)“f”** as follows:

f. ~~Earned~~ Federal or state earned income tax credit.

ITEM 5. Adopt the following **new** subparagraph **170.2(1)“d”(28)**:
(28) Federal or state earned income tax credit.

[Filed 6/11/08, effective 8/6/08]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/2/08.